

February 16, 2011

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

FOR THE TENTH CIRCUIT

LOUIE REAVES, JR.,

Plaintiff - Appellant,

v.

No. 11-1060
(D.C. No. 1:10-CV-02630-ZLW)

MAYOR JOHN W. HICKENLOOPER;
DIGGINS, Denver Chief Sheriff;
KIELAR, Denver Chief Sheriff;
CONNERS, Denver Major Sheriff;
MCCALL, Denver Captain Sheriff;
GUETTEREZ, Denver Captain Sheriff;
SAUER, Denver Captain Sheriff;
KOPLON, Denver Captain Sheriff;
AUSTIN, Denver Sheriff Sergeant;
DAUGHERTY, Denver Sheriff Sergeant;
YOMOTA, Denver Sheriff Sergeant;
HALL, Denver Sheriff Sergeant;
HITCHCOCK, Denver Sheriff Sergeant;
HAMILTON, Denver Sheriff Jailer;
JURANEK, Denver Sheriff Sergeant;
ZUNIGO, Denver Sheriff Sergeant;
ESQUIBEL, Denver Sheriff Jailer;
ORTAGO, Denver Sheriff Jailer; M.
KANJIPE, Denver Sheriff Jailer; GIBSON,
Denver Sheriff Jailer; DAVIS, Denver
Sheriff Jailer; FRANKS, Denver Sheriff
Jailer; MARTINEZ, Denver Sheriff Jailer;
TILTON, Denver Sheriff Jailer;
GELLARDO, Denver Sheriff Jailer;
SCHAFFER, Denver Sheriff Jailer;
SUNDRUP, Denver Sheriff Jailer;
PRATT, Denver Sheriff Jailer;
MONITANOE, Denver Sheriff Jailer;
BENNETT, Denver Sheriff Jailer;
MONTOKA, Denver Sheriff Jailer;

SISNERO, Denver Sheriff Jailer; GREER, Denver Sheriff Jailer; BINDER, Denver Sheriff Jailer; VELEZ, Denver Sheriff Jailer; JACKSON, Denver Sheriff Jailer; HARVEY, Denver Sheriff Jailer; LEYNA, Denver Sheriff Jailer; BOWEN, Denver Sheriff Jailer; TRUJILLO, Denver Sheriff Jailer; HAMMONDS, Denver Sheriff Jailer; SAINT GERMANE, Denver Sheriff Jailer; BERIG, Denver Sheriff Jailer; KATZMAN, Denver Sheriff Jailer; KENOWN, Denver Sheriff Jailer; YOMEKO, Denver Sheriff Jailer; JANONASKE, Denver Sheriff Jailer; LAVIN, Denver Sheriff Jailer; COX, Denver Sheriff Jailer; BROWN, Denver Sheriff Jailer; SCOTT, Denver Sheriff Jailer; CANNON, Denver Sheriff Jailer; O'BRIAN, Denver Health Doctor; CRUMB, Denver Health Doctor; CARMAN, Denver Health Nurse; VICKIE, Denver Health Nurse; JOE, Denver Health Nurse; SUSAN, Denver Health Nurse; CAROL, Denver Health Nurse; DANA, Denver Health Nurse; ALE, Denver Health Nurse; DONNA, Denver Health Nurse; ROWIS, Denver Health Nurse; RENEE, Denver Health Nurse; ROBBINS, Denver District Judge; SCOTT REISCH; JEFF KEMPERMAN, Denver District Attorney,

Defendants - Appellees.

ORDER

Before **KELLY, TYMKOVICH**, and **GORSUCH**, Circuit Judges.

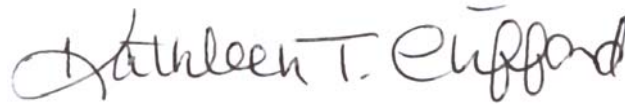
The district court dismissed Plaintiff Louie Reaves' action without prejudice for failure to submit a certified copy of his inmate trust fund account statement in support of his *in forma pauperis* motion, as he was directed to do by the court. Final judgment was entered December 8, 2010. Plaintiff, incarcerated at the Denver County Jail and proceeding *pro se*, appeals. We dismiss for lack of jurisdiction. The notice of appeal is untimely.

In *Bowles v. Russell*, 551 U.S. 205, 214 (2007), the Supreme Court made "clear that the timely filing of a notice of appeal in a civil case is a jurisdictional requirement." The thirty-day deadline under Fed. R. App. P. 4(a)(1)(A) for the filing a timely notice of appeal in this civil case expired on January 7, 2011. Plaintiff's notice of appeal was filed in the district court on February 4, 2011, which was twenty-eight days past the thirty-day filing deadline. Plaintiff did not move in the district court for an extension of time under Fed. R. App. P. 4(a)(5), and this court may not extend the time for filing an appeal. See *Brumark Corp. v. Samson Resources Corp.*, 57 F.3d 941, 949 (10th Cir. 1995). And although Plaintiff is entitled to application of the prison mailbox rule, he cannot avail himself of this rule because he failed to comply with the rule's mandatory requirements. See Fed. R. App. P. 4(c); *Prince v. Philpot*, 420 F.3d 1158, 1165-67 (10th Cir. 2005); *United States v. Ceballos-Martinez*, 387 F.3d 1140, 1144-45 (10th Cir. 2004). Therefore, the date the notice of appeal

was filed in the district court controls, which is twenty-eight days late.

The appeal is **DISMISSED** for lack of appellate jurisdiction.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, reading "Kathleen T. Clifford". The signature is written in a cursive, flowing style with a large initial 'K' and a distinct 'T'.

Kathleen T. Clifford
Attorney - Deputy Clerk